IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

Notice of Motion No. 2509 of 2005
In
Appeal No. 497 of 2004
In
Contempt Petition No. 88 of 2002
In
Summary Suit No. 3846 of 2001

Kartik K. Parekh .. Appellant
V/s.
European Investments Ltd. & Ors. .. Respondents

WITH

Notice of Motion No. 2510 of 2005
In
Appeal No. 496 of 2004
In
Contempt Petition No. 88 of 2002
In
Summary Suit No. 3846 of 2001

Classic Credits Ltd. & Anr. .. Appellants
V/s.
European Investments Ltd. & Ors. .. Respondents

Mr. Sanjay Jain with Dr. Javale i/b. M/s. Dhruva & Co. for the Appellant (Orig. Respondent No. 1)

Mr. Nitin Thakker i/b. M/s. RMG Law Associates for the Respondent No. 1 (Orig. Plaintiff)

CORAM : DR. S. RADHAKRISHNAN &
S.C. DHARMADHIKARI, JJ.
DATED : 14.09.2005.

P.C.:-

1. Heard the learned counsel for the Appellant and the Respondents. By this Notice of Motion, taken out by the Respondent No. 1, the Respondent No. 1 is seeking a relief that this Court should vacate the ad-interim order granted on 10.8.2004 read with order dated 20.7.2005 passed in Notice of Motion No. 2289 of 2004 and Notice of Motion No. 2290 of 2004.

2. Main grievance of the learned counsel appearing for the Respondent No. 1 Mr. Thakker is that as per order dated 26.10.2004 passed by this Court in the aforesaid

Notice of Motion No. 2289 of 2004 and Notice of Motion No. 2290 of 2004, the Appellants were directed to serve all the unserved Respondents within a period of six weeks from that day. The Court had observed that the Court may be constrained to vacate the ad-interim order dated 10.8.2004, if they fail to serve the Respondents within a period of six weeks. The contention of Shri Thakker is that the Respondent No. 3 has still not been served with the above Notice of Motion. We have perused the affidavit of service filed on behalf of the Appellant, wherein in paragraph 3, it is clearly mentioned that three attempts were made to serve the Respondent No. 3, however, the Respondent No. 3 was not present and the flat was found locked and as such the show cause notice could not be served on the Respondent No. 3. The learned counsel appearing on behalf of the Appellant Shri Jain also pointed out that even the Respondent No. 1 could not be serve, in the original proceedings, with the show cause notice on Respondent No. 3 as he was absconding and in fact the show cause notice was discharged against him.

3. We do not find any ground made out for the reliefs sought in the above Notice of Motions, Notice of Motion stands dismissed.

(DR. S. RADHAKRISHNAN, J.)

(S.C. DHARMADHIKARI, J.)